



## Bill Draft 2015-SBz-21: Amend Occupational Licensing Boards Statutes.

2015-2016 General Assembly

<b>Committee:</b>	Joint Legislative Administrative Procedure Oversight Committee	<b>Date:</b>	April 4, 2016
<b>Introduced by:</b>		<b>Prepared by:</b>	Chris Saunders
<b>Analysis of:</b>	2015-SBz-21 [v.10]		Committee Counsel

### SUMMARY:

#### Section 1:

Within six months of a board member's initial appointment to an occupational licensing board (OLB), and at least every two years thereafter, the board member must receive training on the statutes governing the board, rules adopted by the board, and several State laws.

**Section 1** of the legislative proposal would require that this training must also include education on federal antitrust law and state action immunity.

#### Section 2:

**Section 2** would add several new sections to the Chapter of the General Statutes governing OLBs as follows:

**G.S. 93B-17** would require all OLBs to adopt rules for the process of receiving and resolving complaints, for taking disciplinary or enforcement actions against its licensees, and for taking enforcement actions against persons not licensed by the board. Additionally, this section would require OLBs to adopt any interpretation, clarification, or other delineation of the board's scope of practice as a rule.

**G.S. 93B-18** would clarify OLBs' authority to investigate unlicensed activity and to notify unlicensed persons of possible violations of laws and rules. This section would also provide standardized language for notifying unlicensed persons and entities of possible violations of the law. The notification would not indicate that the board has made a finding of a violation, but may indicate the board's belief or opinion that an unlicensed activity may violate the board's enabling statutes, include factual information regarding legislation and court proceedings concerning the potential violation, and provide notice of the board's intent to pursue administrative remedies or court proceedings.

**G.S. 93B-19** would provide that the venue for OLBs seeking a court order for injunctive relief or to show cause for failure to comply with a subpoena issued by the board is the superior court of the county where the defendant resides or the county where the board has its principal place of business.

**G.S. 93B-20** would allow an OLB to appear in its own name in superior court in actions for injunctive relief to restrain activities in violation of the board's rules, orders, or statutes administered by the board. No board would be permitted to issue injunctive orders independently of the superior court unless specifically authorized to do so by law.

**G.S. 93B-21** would state that the policy of the State is that OLBs should resolve jurisdictional disputes through informal procedures. For jurisdictional disputes between OLBs that cannot be resolved through



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informal procedures, the procedure would be for an affected board to file a petition with the Office of Administrative Hearings and serve the petition on all affected boards. This dispute would become a contested case under Articles 3 and 4 of the Administrative Procedure Act.

**G.S. 93B-22** would require all OLBs to develop and implement a complaint process that provides for all of the following:

- A description of the complaint process on the board's website, including the types of violations that are under the board's jurisdiction.
- Electronic complaint submission via the board's website, including a prominently displayed link to a complaint form.
- The ability to provide complainants with a written description of the final disposition of each complaint.

**Section 3** would direct the Joint Legislative Administrative Procedure Oversight Committee to continue to study the effects of the opinion in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* and other issues related to the scope of practice jurisdiction of occupational licensing boards.

**EFFECTIVE DATE:** This legislative proposal would become effective when it becomes law.